



JPP 10/3/01 9:29

3:01-CV-01777 SUSTEREN V. JONES

1

CMP.

1 ADAM VAN SUSTEREN
2 2461 Union St. #2
3 San Diego, CA. 92101
4 Tel. (619) 230-1411
5 Pro Se

01 OCT -2 AM 10:17
CATHY GLASER, DEPUTY CLERK
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

9 ADAM VAN SUSTEREN,

10 Plaintiff,

11 v.

12 BILL JONES in his official
13 capacity as California
14 Secretary of State; MIKEL
15 HAAS in his official capacity
as Registrar of Voters

16 Defendants,

01 CV 1777BTM (PDR)
Civil No. _____

COMPLAINT FOR
INJUNCTIVE RELIEF
(ELECTIONS)

PRIORITY MATTER

19 **INTRODUCTION**

21 This complaint is brought by and on behalf of Adam Van
22 Susteren, a San Diego resident, who is seeking ballot access for
23 the 2002 election in the United States House of Representatives.
24 Defendants warned through employee Cathy Glaser that Plaintiff
25 will be prevented from filing the necessary papers for ballot
26 access, claiming that Plaintiff did not meet requirements
27 pursuant to the California Elections Code. Plaintiff asserts

1 the law preventing his ballot access violates the Qualifications
2 Clause of the United States Constitution. Plaintiff seeks an
3 injunction against Defendants from enforcing the law.
4

5 **JURISDICTION**

6 1. Jurisdiction is conferred on this Court by 28 U.S.C. §
7 1331, which grants the district courts original jurisdiction for
8 all civil actions arising under the Constitution, laws, or
9 treaties of the United States. This action arises under a
10 question of the United States Constitution.
11

12 **VENUE**

13 2. Venue is predicated on the provisions of 28 U.S.C. §
14 1391(b)(2) because Plaintiff was prevented from filing in San
15 Diego, where a substantial part of the events giving rise to the
16 claim asserted occurred.
17

18 **PARTIES**

19 3. Plaintiff Adam Van Susteren, a lifetime U.S. citizen,
20 is a San Diego resident seeking ballot access as a Libertarian
21 candidate for California's 53rd district in the 2002 United
22 States House of Representatives election.
23

24 4. Defendant Bill Jones is the California Secretary of
25 State whose responsibilities as Secretary of State include:
26 serving as the State's Chief Elections Officer and enforcing the
27 California Elections Code. Defendant Mikel Haas is the San
28 Diego Registrar of Voters.

1 **STATEMENT OF THE FACTS**

2 5. On 10/3/00, Van Susteren registered to vote as a
3 Republican in California.
4

5 6. On 5/29/01, Van Susteren registered to vote as an
6 Undeclared in California.
7

8 7. On 6/19/01, Van Susteren registered to vote as a
9 Libertarian in California.
10

11 8. On September 28, 2001, Van Susteren filed the necessary
12 petitions to obtain ballot access and fee waiver for candidacy.
13 On September 30, 2001 Van Susteren was informed by Cathy Glaser
14 (employee of San Diego Registrar of Voters) that he would not be
15 allowed to file because he failed to satisfy the requirement of
16 California Elections Code 8001 § (a)(2).
17

18 **CLAIM FOR RELIEF**

19 9. Through Cal. Elec. Code 8001 § (a)(2), Defendants deny
20 Plaintiff the opportunity to obtain ballot access even though
21 Plaintiff meets all requirements under the U.S. CONST. art. I §
22 2 cl. 2. Defendants are enforcing a law, which adds State
23 qualifications to a Federal election, which is thus repugnant to
24 the United States Constitution.
25

26 **RELIEF REQUESTED**

27 WHEREFORE, plaintiff request that this court:
28

a. Enter a judgment declaring Cal. Elec. Code § 8001(a)(2) unconstitutional and enjoin Defendant from further enforcing it.

b. Award Court costs incurred by the Plaintiff.

c. Award any other relief the Court deems just and proper.

Respectfully submitted,

Adam Van Susteren

By: A.M.

Adam Van Susteren
2461 Union St. #2
San Diego, CA. 92101
(619) 230-1411
Plaintiff
Pro Se

MEMORANDUM OF POINTS AND AUTHORITIES**I. PRELIMINARY FACTS**

Plaintiff registered Republican in California for the 2000 election, but became unhappy with his party's platform shortly thereafter. Plaintiff discovered the Libertarian party, and currently believes that the philosophy and agenda of the Libertarian party is in the country's best interest. Plaintiff did not foresee over twenty-five months in advance that he would run for Congress, but took steps to run for Congress on or about July 4, 2001, a full fifteen months before the election.

Plaintiff, an active member of the Libertarian party since approximately May 2001, believes he is the best candidate to represent the Libertarian party in California's 53rd District. Plaintiff's writings have been published in the San Diego Libertarian newsletter, Plaintiff has created and operated a website entailing the libertarian philosophy, attended and contributed to several Libertarian party meetings, participated in various Libertarian outreach activities including, "End The Drug War," "Campus Outreach," and "Gun Show Support." Plaintiff resides in the middle of his district and walks through his district daily to and from law school. Plaintiff is fully supported and backed by the Libertarian party and Libertarians

1 throughout the country, including the San Diego Libertarian
2 Party Chair.

3 Plaintiff has been told he cannot run for Congress because
4 he did not meet the requirement of Cal. Elec. Code § 8001,
5 because he was registered with another qualified party within
6 the previous year of filing for candidacy. Plaintiff contends
7 this is an added qualification by the State of California to a
8 Federal election, which violates the Constitution. Thus this
9 Court must enjoin the Defendants from enforcing a law which is
10 contrary to the Constitution, and is preventing the Van Susteren
11 candidacy.

12 **II. GOVERNING LAW**

13 The Qualifications Clause of the United States Constitution
14 states:

15 No Person shall be a Representative who shall not have
16 attained to the Age of twenty five Years, and been
17 seven Years a Citizen of the United States, and who
18 shall not, when elected, be an Inhabitant of that
19 State in which he shall be chosen.

20 The United States Supreme Court has recently performed a
21 thorough review of whether or not States have the power to add
22 qualifications to a Federal election. The Court held that
23 Arkansas does not have the power to impose term limits on
24 federal elections by restricting ballot access, declaring, "The
25 provisions in the Constitution governing federal elections

1 confirm the Framers' intent that States lack power to add
2 qualifications." US Term Limits v. Thornton, 514 U.S. 779, 808
3 (1995).

4 The Court held that States do have the power to regulate
5 procedural aspects of an election, but not the power to exclude
6 classes of candidates from running. Id. at 832.
7

8 Recently the 9th Circuit decided a case with the same core
9 issue as the case at bar, Schaefer v. Townsend, 215 F.3d 1031
10 (9th Cir. 2000), cert. denied, 2001 U.S. Lexis 1995 (2001).
11 Schaefer sued to have a court declare Cal. Elec. Code § 201
12 unconstitutional because it required candidates for the United
13 States House to be registered voters in the State of California,
14 thus requiring them to be residents of California to file for
15 ballot access. Schaefer argued that the U.S. Constitution did
16 not require him to live in the State for which he was seeking
17 Congressional election until just prior to the election, and
18 that the state could not impose an extra qualification requiring
19 him to live in the State. Based on the rationale of Term
20 Limits, the 9th Circuit declared:
21

22 The California residency requirement has the likely
23 effect of handicapping the class of nonresident
24 candidates who would otherwise meet the requirements
25 of the Qualifications Clause. Therefore, because
26 states do not have the power to add to or alter the
27 requirements enumerated in the Qualifications Clause,
28

1 Section 201 of the California Elections Code is
2 unconstitutional insofar as it requires candidates for
3 the state's delegation to the House of Representatives
4 to reside in the state prior to the election.

5 Schaefer v. Townsend, 215 F.3d at 1039.

6

7 **III. PLAINTIFF AS A MEMBER IN HANDICAPPED CLASS**

8 The Supreme Court noted, "[R]estrictions upon the people to
9 choose their own representatives must be limited to those
10 'absolutely necessary for the safety of the society.'" Powell v.
11 McCormack, 395 U.S. 486, 543 (1969), quoting 17 Annals of Cong.
12 874 (1807).

13 Plaintiff, and all other persons who may some day be so
14 moved by some event that they change political party affiliation
15 and decide to run for office, are hindered by Cal. Elec. Code §
16 8001. The presumable purpose behind the Code is to prevent
17 fraudulent or frivolous campaigns. However, the filing fee and
18 signature requirement are large enough hurdles to derail
19 frivolous campaigns, thus Defendants are enforcing a law that
20 prohibits Plaintiff from running a serious campaign for office,
21 even when he meets all federal requirements.

22 Plaintiff contends no literate person that votes in the
23 2002 Congressional election will not know that the Plaintiff is
24 a Libertarian. Regardless, Plaintiff still has fourteen months
25 until the election, during which he will continually declare

1 himself a member of the Libertarian party, and campaign on
2 issues consistent with the Libertarian platform.

3 Cal. Elec. Code § 8001 prevents Plaintiff from associating
4 with his political party, and inhibits him from having any
5 reasonable chance of winning the election. Our republican form
6 of government should allow the voters to vote for the candidate
7 they feel best represents them, not whomever California says can
8 run for federal office.

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12
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14 WHEREFORE, plaintiff prays upon this Court for an expedited
15 process in order to enjoin Defendant from enforcing Cal. Elec.
16 Code § 8001(a)(2), thereby allowing plaintiff to gain access to
17 the ballot for the 2002 Congressional Election in California's
18 53rd District.

20
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24 
25

26 ADAM VAN SUSTEREN
27 Plaintiff Pro Se
28

I. (a) PLAINTIFFS

Adam Van Susteren 01 OCT-2 A1110:12 Bill Jones

(b) County of Residence of First Listed Plaintiff _____

(EXCEPT IN U.S. PLAINTIFF CASES)

SD

DEFENDANTS

Mikel Haas

County of Residence of First Listed

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

DEPUTY

(c) Attorney's (Firm Name, Address, and Telephone Number)

*Adam Van Susteren (pro se)
2461 Union St. #2
San Diego, CA 92101*

Attorneys (If Known)

'01 CV 177701X (FOR)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury—Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury		<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 891 Agricultural Acts
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation	<input checked="" type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 520 Habeas Corpus:	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Emp. Ret. Inc. Security Act	<input type="checkbox"/> FEDERAL TAX SUITS
		<input type="checkbox"/> 555 Prison Condition		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
				<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- | | | | | | | |
|---|---|--|---|--|---|--|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |
|---|---|--|---|--|---|--|

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

28:1331 cv (APP)

26 USC 1331, Plaintiff wants to enjoin Defendants from enforcing a law based on Constitutionality.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: Yes No JURY DEMAND:

VIII. RELATED CASE(S) (See instructions): IF ANY JUDGE DOCKET NUMBER

DATE Oct 2, 2001 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IJP JUDGE MAG. JUDGE

75519 10/8/1501(CC)